THE HON'BLE Mr. JUSTICE N.V. RAMANA

WRIT PETITION No.21639 of 1996

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Dated: October 3, 2005

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Between:

A. Sudhakar, S/o.Sudarshan, Hindu,

Aged about 22 years, OCC: Business,

R/o. Bhiknoor Village & Mandal,

Nizamabad District.

… Petitioner

And

The Regional Transport Officer,

Nizamabad.

… Respondent

Order:

This writ petition is filed seeking Mandamus declaring the action of the respondent in not returning the petitioner's original Registration Certificate and original Driving Licence and also in not accepting the tax and insisting the petitioner to handover his

vehicle No.AP-9-F-433 and get the same released only after paying the amount claimed in the show cause notice dated 10-09-1996 as arbitrary and illegal and for a consequential direction to the respondent to return the petitioner's original Registration Certificate and Driving Licence and not to insist him to handover his vehicle and also not to insist him to pay the amount claimed in the show cause notice dated 10-09-1996.

2. Petitioner, claiming to be the owner of the vehicle bearing No.AP-9-F-433, submits that he purchased the said vehicle from its previous owner and got it transferred on his name. It is the case of the petitioner that while his family members were going to Narsingi, Medak District, on 20-08-1986 to attend a function, the said vehicle was seized and an untenable check report was issued. Petitioner submits that challenging the said action, he filed W.P.No.18364 of 1996 before this Court, which was disposed of by an order dated 04-09-1996 directing that the vehicle of the petitioner shall be released on deposit of Rs.500/- before the first respondent and the petitioner was directed not to alienate the vehicle and to produce it as and when required. It is the main grievance of the petitioner that the respondent issued a show cause notice dated 10-09-1996 stating that the owner of the vehicle is directed to show cause as to why Tax of Rs.7,638/- and C.F Rs.3,250/- each for driver and owner should not be collected from him for Q.E. 30-09-1996, and to submit his explanation, failing which action will be taken to confirm the demand and to produce the vehicle before the authority concerned. Petitioner states that he had submitted his explanation to the said show cause notice, but so far no action whatsoever has been taken on the same. Petitioner alleges that the respondent, without passing any orders and without taking any action on the explanation submitted by him, is insisting to handover the said vehicle and get the vehicle released, after paying the amount specified in the show cause notice. Thereafter, the respondent, by his order dated 06-11-1996, rejected the explanation offered by the petitioner, confirmed the demand, and directed him to pay Tax of Rs.7,638/- for quarter ending 30-09-1996 within ten days from the date of receipt of that order, failing which action would be taken under the Revenue Recovery Act, for recovery of arrears.

3. Heard the learned counsel for the petitioner and the learned Government Pleader for Transport appearing on behalf of the respondents and perused the order impugned.

4. Learned counsel for the petitioner relied upon a judgment of a Larger Bench of this Court in **L. Royal Reddy and others V. Government of Andhra Pradesh and others** wherein it was held that the State is not competent to collect the tax at higher rate from the permit holders of stage carriages/contract carriages for contravention of the conditions of permits – they can only be proceeded against under Motor Vehicles Act. The Larger Bench ordained that the view taken by the two Full Benches of this Court in **Y. Peda Venkaiah V. The Regional Transport Officer** and **V. Govindarajulu V. The Regional Transport Officer** is no longer a good law in view of the decision of the Hon'ble Supreme Court in
M. Narasimhaiah V. Deputy Commissioner, and allowed the writ petitions therein.

5. Leaned Government Pleader for Transport appearing on behalf of the respondents submits that the said order of the Larger Bench had been challenged in an S.L.P. before the Hon'ble Supreme Court and no interim suspension was ordered by the Supreme Court.

6. In view of the facts and circumstances and in view of the judgment of the Larger Bench of this Court in *Royal Reddy's case*
(1 supra), I deem it appropriate to dispose of the writ petition with the following directions. -

The respondent is directed to reconsider his order dated
06-11-1996 in the light of the judgment of this Court (1 supra) and pass an order afresh. Till such time, the petitioner shall not be demanded to pay the tax determined in the order dated 06-11-1996.

7. The writ petition is accordingly disposed of. No costs.

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N.V. RAMANA, J.

October 3, 2005

MRR